

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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In the Matter of)
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Technical Requirements to Enable)
Blocking of Video Programming)
Based on Program Ratings)
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)
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Implementation of Sections)
551 (c), (d), and (e) of the)
Telecommunications Act of 1996)
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ET Docket No. 97-206

COMMENTS OF THE
INFORMATION TECHNOLOGY INDUSTRY COUNCIL

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SUMMARY

The Information Technology Industry Council ("ITI") does not oppose the Commission's proposal implementing ratings-based program blocking technology requirements for analog television receiver apparatus, including computer systems that have television reception capability. The Commission should, however, implement its program blocking rules in a manner that maximizes manufacturing flexibility and consumer choice.

To preserve pro-competitive and pro-consumer flexibility for manufacturers, the Commission rules must allow manufacturers to select the type of ratings-based blocking technology to use in their products, so long as the technology is compatible with the program ratings and transmission system approved by the Commission. The Commission's rules should not foreclose the development and use of alternative non-ratings-based blocking technologies.

Similarly, the Commission should require manufacturers to install ratings-based blocking technology compatible with multiple ratings systems or to install multiple blocking technologies. Both requirements would increase consumer costs, discourage variety and innovation, and delay the availability and effective use of program blocking technology.

ITI urges the Commission to refrain from mandating programming formats and end user interfaces for program blocking technology. Manufacturers should be permitted to experiment with different formats and user interfaces in response to consumer demand and market forces.

The Commission should adopt realistic time frames for manufacturer implementation of program blocking rules. Once the Commission finalizes its requirements for a ratings system, adopts a ratings transmission standard, and issues final rules for a program blocking technology, manufacturers will require at least twenty-four months to design, test, produce, and make available to consumers products with program blocking technology.

Finally, the Commission should clarify the scope of its program blocking rules. The rules should not apply to information technology equipment that does not actively decode television signals through the use of a television tuner. Consistent with the Commission's rules for closed captioning, the program blocking rules should not apply to computers sold without monitors or sold with monitors that do not have a viewable picture of 33 cm (13") or larger. Consistent with Congress' intent, the Commission's rules should not apply to video-formatted Internet data or video clips.

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY.....	i
INTRODUCTION.....	1
I. THE COMMISSION'S RULES SHOULD ENCOURAGE AND ACCOMMODATE VARIETY AND INNOVATION IN PROGRAM BLOCKING TECHNOLOGIES.....	3
II. THE COMMISSION SHOULD NOT MANDATE MORE THAN ONE RATINGS SYSTEM FOR USE WITH RATINGS-BASED PROGRAM BLOCKING TECHNOLOGIES.....	5
III. THE COMMISSION SHOULD NOT AND CAN NOT MANDATE THE IMPLEMENTATION OF MULTIPLE BLOCKING TECHNOLOGIES.....	6
A. Section 330(c) of the Act Does Not Authorize the Commission to Require the Implementation of Multiple Blocking Technologies.....	7
B. Requiring Manufacturers to Implement Multiple Blocking Technologies Would Add to the Expense and Time Required to Comply with the Commission's Rules.....	8
IV. THE COMMISSION SHOULD ALLOW MANUFACTURERS TO DEVELOP ALTERNATIVE USER INTERFACES FOR USE OF BLOCKING TECHNOLOGIES.....	8
V. THE COMMISSION'S PROPOSALS REGARDING IMPLEMENTATION OF PROGRAM BLOCKING TECHNOLOGY MUST BE REVISED TO TAKE ACCOUNT OF DESIGN AND PRODUCTION CYCLES.....	9
VI. THE COMMISSION MUST CLARIFY THE SCOPE OF ITS PROPOSALS AS THEY WILL BE APPLIED TO COMPUTER SYSTEMS.....	11
A. The Commission Should Specify With Greater Precision the Computer Systems to Which the Proposed Rules Will Apply.....	11
B. The Commission Should Make Clear That The Proposed Rules Do Not Apply to Content Available from the Internet.....	12
CONCLUSION.....	14

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**COMMENTS OF THE
INFORMATION TECHNOLOGY INDUSTRY COUNCIL**

The Information Technology Industry Council ("ITI") submits these Comments in response to the Notice of Proposed Rulemaking (the "NPRM" or "Notice") in the above-captioned proceeding.¹

INTRODUCTION

ITI is the leading trade association of manufacturers and vendors of computers, consumer electronics, computing, and information products and services. The members of ITI operate in competitive markets that have fostered the introduction of countless innovative products, furthered technological progress, and benefited consumers. In these comments, ITI addresses the Commission's proposal to apply to certain computer systems the video

¹ *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, ET Dkt. No. 97-206, FCC 97-340 (issued September 26, 1997).

programming blocking requirements of Sections 303(x) and 330(c) of the Communications Act.²

ITI does not oppose the Commission's proposal for implementing ratings-based program blocking technology in analog television receivers, and agrees that such proposal should apply to computer systems that contain television tuner cards or circuitry and are therefore capable of receiving ratings information transmitted, whether over the air or via cable or satellite systems, on line 21 of the vertical blanking interval. However, the Commission's rules should, to the greatest extent possible, maximize manufacturers' flexibility to develop innovative program blocking technologies and applications, with user-friendly interfaces, in response to market forces and consumer demand. The Commission's rules must establish an implementation timetable that is consistent with manufacturers' product design, development, and introduction timetables. Finally, the Commission should reconfirm that its program blocking rules do not apply to Internet content or to computer systems that have monitors smaller than 13 inches or that do not have television tuner cards or circuitry enabling them to receive the television programming at issue in Sections 303(x) and 330(c) of the Communications Act.

² The Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 111 Stat. 56 (1996) (the "Act").

**I. THE COMMISSION'S RULES SHOULD ENCOURAGE AND
ACCOMMODATE VARIETY AND INNOVATION IN PROGRAM
BLOCKING TECHNOLOGIES**

As noted, ITI has no objection to the use of uniform content ratings systems and transmission standards (using field 2 of line 21 in the vertical blanking interval) described by the Commission in the NPRM. However, ITI supports program blocking rules that maximize manufacturers' flexibility to develop and market a broad range of blocking technologies from which consumers can choose. Accordingly, the Commission's rules should not mandate the same uniformity in the blocking technology used by manufacturers of computer equipment purchased by end users.

Unlike ordinary television receivers, computer systems have the ability to support a variety of hardware, software, and firmware products or solutions providing ratings-based program blocking capability. The Commission's rules should permit computer system manufacturers to install any blocking technology compatible with the ratings system and transmission standards adopted by the Commission in this proceeding.

ITI believes that there are several advantages to allowing computer manufacturers to employ a variety of program blocking technologies and offer consumers a range of program blocking options. First and foremost, the provision of multiple ratings-based blocking technologies will allow consumers to choose the program blocking product or method that they prefer. To the extent that consumers indicate a preference for a particular form of ratings-based

technology, manufacturers will respond and adapt their products accordingly. In other words, this means of implementation will allow market forces and consumer choice to determine what ratings-based blocking technology computer system manufacturers choose to use.

Second, rules allowing a computer manufacturer to design and install a ratings-based blocking technology of its choice will enable it to implement the blocking technology that works best with its products. As noted, computers can support hardware, software and firmware solutions and applications to provide program blocking technology. Different blocking products may affect a computer system's operation differently. Also, some technologies may utilize a computer system's other capabilities better than others. The Commission's rules should not foreclose a manufacturer's ability to take these factors into account in determining the best way to provide program blocking capability.

Third, allowing computer manufacturers to implement alternative blocking technologies will create competition between them, which will help to control the costs of acquiring blocking technology. In addition, such competition will create incentives for developing new ratings based technologies and improving existing technologies.

For the same reasons that ITI advocates flexibility in the implementation of ratings-based program blocking technology, it also strongly supports rules that encourage the speedy introduction and wide availability of alternative, non-ratings-based blocking technologies as they become available. Section

330(c)(4) of the Act requires the Commission to assess alternative program blocking technologies and to revise its program blocking rules as viable, non-ratings based technologies become available. ITI encourages the Commission to use this authority pro-actively to authorize alternatives to the ratings-based blocking technologies currently available. The Commission should encourage variety and innovation, increase consumer choice, and preserve competition with respect to program blocking products by establishing rules that maximize manufacturers' flexibility to select blocking technologies.

In sum, as to both ratings-based blocking technology and alternative blocking technologies, the Commission's rules should ensure consumer choice, reliable operation in computer systems, and better, more sophisticated program blocking technologies in the future by granting manufacturers broad discretion in developing and implementing program blocking technologies.

II. THE COMMISSION SHOULD NOT MANDATE MORE THAN ONE RATINGS SYSTEM FOR USE WITH RATINGS-BASED PROGRAM BLOCKING TECHNOLOGIES

In the Notice, the Commission indicated its preference for program blocking rules that are consistent with the transmission of multiple ratings systems over line 21 of the vertical blanking interval.³ ITI opposes any requirement that manufacturers install, and consumers purchase, blocking technology compatible with multiple ratings systems. Rules requiring ratings-based blocking technologies to work effectively with multiple ratings systems

³ Notice, at ¶¶ 10-12.

would increase the time and resources needed to implement blocking services. The more ratings systems a blocking technology must accommodate, the more complicated the blocking technology must be. The more complicated the blocking technology, the more difficult, costly, and time-consuming it will be to engineer into increasingly sophisticated computer systems. Such a requirement would also introduce costly updating requirements for manufacturers as ratings systems are introduced, amended, and abandoned. For consumers, multiple ratings systems are likely to complicate unnecessarily their ability to learn and effectively use blocking technology.

For these reasons, ITI urges the Commission to mandate no more than one ratings system with which ratings-based blocking technologies must be compatible and permit the use of additional ratings system on an optional basis. As consumers and producers become familiar with program blocking technology, the demand for more sophisticated screening and blocking technologies, including technologies that are compatible with multiple ratings systems, may develop. However, the development and use of such technologies should be left to market forces.

III. THE COMMISSION SHOULD NOT AND CAN NOT MANDATE THE IMPLEMENTATION OF MULTIPLE BLOCKING TECHNOLOGIES

ITI strongly opposes the Commission's proposal to require manufacturers to include both ratings based and date/time/channel blocking capabilities.⁴ Such a measure would increase the lead-time, complexity, and costs of making

⁴ Notice, at ¶ 13.

program blocking technology available. It would also exceed the Commission's authority to promulgate program blocking rules pursuant to Section 330(c) of the Act.

A. Section 330(c) of the Act Does Not Authorize the Commission to Require the Implementation of Multiple Blocking Technologies.

Section 330(c) of the Act clearly permits the Commission to implement rules requiring television receivers to contain blocking technology that operates in connection with transmitted ratings information. It also requires the Commission to evaluate non-ratings based blocking technologies and permit their use as alternatives to ratings-based technology when the Commission deems them to be as effective, cost-efficient, and easy to use as ratings-based systems. However, the clear language of Section 330(c)(4) of the Act states that the Commission is to require that televisions include ratings-based technology *or* non-ratings based technology meeting the criteria set forth in Section 330(c)(4).⁵ Thus, the Commission may, consistent with Section 330 of the Act, require a manufacturer to implement a ratings-based blocking technology or an acceptable alternative blocking technology in its products. It cannot require the manufacturer to include both.

⁵ Section 330(c)(4) states, in relevant part, as follows:

If the Commission determines that an alternative blocking technology exists . . . the Commission shall amend the rules prescribed pursuant to Section 303(x) to require the apparatus described in such section be equipped with *either* the blocking technology described in such section *or* the alternative blocking technology described in this paragraph.

B. Requiring Manufacturers to Implement Multiple Blocking Technologies Would Add to the Expense and Time Required to Comply with the Commission's Rules.

Even if the Commission determines that it has the authority to compel computer manufacturers to implement multiple blocking technologies in computer equipment, it should not. As pointed out above, additional regulatory requirements beyond those required to provide consumers with ratings-based program blocking capability will add to the expense of complying with the Commission's rules and could delay the availability of such a capability. Therefore, the Commission's rules should be made as simple as possible to ensure the viable and effective implementation of video blocking technology.

As noted above, to the extent that consumers demand additional ratings and blocking technology options, computer manufacturers will provide them, either as additional options that can be added to existing computers or by incorporating such options in future models.

IV. THE COMMISSION SHOULD ALLOW MANUFACTURERS TO DEVELOP ALTERNATIVE USER INTERFACES FOR USE OF BLOCKING TECHNOLOGIES

ITI concurs in the Commission's assessment that blocking technology should be implemented in as user-friendly a manner as possible.⁶ However, the Commission must allow computer manufacturers to develop appropriate programming formats and interfaces, and should avoid establishing criteria that would confine consumer choice and discourage innovation.

⁶ Notice, at ¶ 14.

Allowing manufacturers flexibility in determining user interface formats will allow the IT industry to develop alternatives for consumers and to learn from consumer experience and demand in response to alternative formats.

Manufacturers who are subject to marketplace and consumer pressures have an undeniable incentive to ensure that blocking technology can be used easily and effectively. The Commission's rules should allow manufacturers to respond to, and learn from, the marketplace by introducing different interface options. The opportunity to experiment and innovate will encourage manufacturers to improve their interfaces while also encouraging them to make blocking options easier to use. Again, the Commission should allow market forces to determine, through the spending patterns and demand of consumers, how programming interfaces develop.

V. THE COMMISSION'S PROPOSALS REGARDING IMPLEMENTATION OF PROGRAM BLOCKING TECHNOLOGY MUST BE REVISED TO TAKE ACCOUNT OF DESIGN AND PRODUCTION CYCLES

The NPRM proposes two deadlines for the implementation of video blocking technology in television apparatus – July 1, 1998 for one-half of a manufacturer's product line; and July 1, 1999 for the remainder of such product line.⁷ Both of these deadlines are unrealistic.

In establishing implementation time frames, the Commission must take into account that the design process for blocking technology (whether in the form of hardware, software, or firmware) cannot begin until the Commission adopts

⁷ Notice, at ¶ 15.

final rules for both a ratings system and the transmission requirements for such ratings system. In addition, manufacturer implementation of program blocking technology must coincide with the applicable product and model introduction cycles in the marketplace.

To accommodate the design and implementation requirements of manufacturers, and differences among marketplace participants, the Commission should provide for an implementation period of not less than twenty-four months from the date by which it has issued final rules for both a ratings system and a ratings system transmission standard. This amount of time is required to redesign products to accommodate program blocking technology and to work with third party vendors that provide essential components (e.g., television tuner cards supplied by third parties to manufacturers). The twenty-four month minimum also reflects the time manufacturers will need to retool their plants for redesigned products and produce sufficient units to build up the requisite inventory.

While the time frame outlined above should provide sufficient time for computer systems manufacturers to provide program blocking capability in their products, manufacturers of other equipment, such as traditional broadcast television receiver manufacturers, may have different timing requirements as a result of their marketplace model introduction cycles. The Commission should therefore set implementation deadlines that accommodate different types of equipment manufacturers.

VI. THE COMMISSION MUST CLARIFY THE SCOPE OF ITS PROPOSALS AS THEY WILL BE APPLIED TO COMPUTER SYSTEMS

ITI requests that the Commission provide clarification on the following points related to the application of the program blocking rules to computer systems and content available over the Internet.

A. The Commission Should Specify With Greater Precision the Computer Systems to Which the Proposed Rules Will Apply.

The Commission, quoting Section 551 (c) of the Act, proposes that to the extent a personal computer is an "apparatus designed to receive television signals," it will be subject to the proposed regulations. Consistent with this formulation, ITI urges the Commission to clarify that the proposed regulations apply only to personal computers with circuit boards that constitute an analog or digital television signal tuner to receive and process television signals. While a few high-end computer models have circuit boards with tuners capable of receiving television broadcast signals, the majority of computers do not. Many models, can, however, passively display video images through a "video in" port. To avoid any confusion on the scope of the regulations, the Commission should explicitly exempt from the scope of the blocking requirements personal computers that do not actively decode television signals through the use of a television tuner.

The Notice also indicated that the Commission intends to apply the program blocking requirements in the same manner as the rules regarding closed captioning. According to the FCC's Public Notice, "Closed Captioning

Requirements for Computer Systems Used as Television Receivers,"⁸ the closed captioning rules do not apply, *inter alia*, to (1) computers or computer systems that do not have the capability to receive television broadcast signals; (2) computers sold without monitors; (3) computer systems with monitors that do not have a viewable picture of 33 cm (13") or larger; or (4) separate "plug-in" circuit boards.. The Commission should clarify that, consistent with the Public Notice on closed captioning, the program blocking rules will not apply to computer systems with the same characteristics, *e.g.*, computers sold without monitors or computer systems with monitors that do not have a viewable picture of 33 cm (13") or larger.

B. The Commission Should Make Clear That The Proposed Rules Do Not Apply to Content Available from the Internet.

In its findings with respect to Section 551 of the Telecommunications Act of 1996, Congress indicated unambiguously that the program blocking provisions included in Sections 303(x) and 330(c) of the Act were directed at the video programming available to standard television receivers, whether transmitted over the air, by cable, or by satellite. Consistent with this Congressional intent, Section 303(x) of the Act authorizes the Commission to develop program blocking rules that apply only to apparatus capable of receiving television signals via a television tuner and, by clear inference, only such content as is transmitted as television signals. As a result, the applicable statutory provisions do not authorize the Commission to apply ratings

⁸ FCC Public Notice, "Closed Captioning Requirements for Computer Systems Used as

requirements and program blocking technology with respect to content available from other sources.

Consistent with Congress's intent, the Commission should make clear that its program blocking rules will not apply to computers that merely download compressed video displays or graphically-rich home pages and other video content available over the Internet or that passively display video images received through a video in-port. The Congressional interest in empowering parents to filter traditional video entertainment did not extend, and should not be extended by FCC rules, to video-formatted Internet data or video clips. Accordingly, the Commission should clarify that video content available on the Internet does not fall within the scope of the statutory section or the Commission's program ratings and program blocking rules.

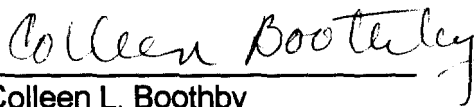
CONCLUSION

For the reasons set forth above, ITI supports video program blocking rules consistent with the comments and requests for clarification of ITI as set forth herein.

Respectfully submitted,

INFORMATION TECHNOLOGY
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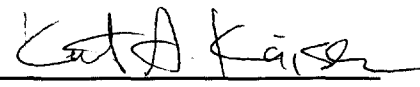
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served this 24th day of November, 1997 by delivering copies thereof by hand to the following:

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